IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5450 of 2002 (O&M)
Date of decision 11.05. 2015.

Gurdev Kumari and others
...... Appellants.

versus

Shaukat Ali and others
...... Respondents.

**CORAM :- HON'BLE MR.JUSTICE K.C.PURI.**

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Shri Tribhawan Singla, Advocate for the appellants.
Shri Suman Jain, Advocate for respondent Insurance Company. .

**K.C.PURI, J.**

This is an appeal directed by Gurdev Kaur mother, Sweety Rani wife and Varun @ Veenu son of deceased Sandeep Kumar Singla, who died in a motor vehicular accident.

2. The learned Tribunal has partly accepted the claim petition and allowed a sum of Rs.2,90,000/-. The income of the deceased was taken as Rs.3000/- per month and 1/3rd amount was deducted in respect of personal expenses of the deceased. The dependency was taken as Rs.2000/- per month and yearly dependency was taken as Rs.24,000/-(Rs.2000x12). The age of the deceased on the date of accident i.e. on 6.5.2001 was 31 years and multiplier of 12 has been applied and in this manner the total amount

calculated was of Rs.2,88,000/-(24000x12). Another sum of Rs.2000/- was allowed in respect of funeral expenses. In this manner a sum of Rsd.2,90,000/-was granted. The present appeal has been directed for enhancement of compensation amount by the claimants.

3. I have heard leaned counsel for the parties and have gone through the records of the case with their able assistance.

4. Counsel for the appellants has contended that income tax return Ex.A-2 has been placed on file and income as per that return was Rs.52040/- and out of which Rs.204/- were payable as income tax and in this manner the income of the deceased was Rs.51,838/- but the Tribunal has taken the income of the deceased as Rs.3000/- per month. It is submitted that another income tax return was filed which is Ex.A-3, although that was filed after the death of deceased but the income tax return Ex.A-2 for the year 2001 has to be taken into account. It is further submitted that no amount in respect of future prospectus, expenses on the last rites and transportation of dead body has been granted to the claimants. It is further submitted that no amount in respect of loss of estate and loss of love and affection has been given. So, prayer has been made for enhancement of the compensation amount. It is further submitted that multiplier applicable at the age of 31, is 16 as per authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009 (3) R.C.R.(Civil) 77.**

5. Counsel for the Insurance Company has supported the award and has submitted that according to the pleadings the deceased was earning Rs.3058/-. So, amount of compensation has rightly been assessed. 1/3rd

amount has been rightly deducted by the tribunal. It is further submitted that amount of expenses on last rites and transportation and loss of love and affection can be allowed keeping in view the price index for the year 2001 when the accident has taken place.

6. I have considered the submissions made by both the sides and have gone through the records of the case with their able assistance.

7. Ex.A2 is the return filed on 30.6.2001 i.e. prior to the death of the deceased. In that return Rs.52040/- have been shown as income and amount payable as income tax has been shown as Rs.204/-. From the perusal of the said return, it is further revealed that total amount deposited in respect of income tax was Rs.3058/- and after deducting Rs.204/- refund of Rs.2854/- has been claimed by deceased Sandeep Kumar Singla. The other return Ex.A-3 has been filed after the death of deceased and as such the same has to be out of consideration zone. However, the Tribunal has committed error by ignoring the income tax return Ex.A-2. So, that income tax return has to be taken into account for calculating the amount of compensation. So, as per said return after paying income tax of Rs.204/- the income of the deceased is taken as Rs.51838/- (say Rs.51,840/-). The deceased was 31 years of age as per the income tax return and finding by the Tribunal. So, keeping in view authority **Rajesh and others vs Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170,** 50% amount has to be added in respect of future prospectus. So, by adding 50%, the income of the deceased comes to Rs.77,706/-. The claimants are three in number, so 1/3rd amount has to be deducted in respect of personal expenses.

By deducting that amount the dependency comes to Rs.51,480/- per year. The multiplier applicable at the age of 31 as per **Smt. Sarla Verma and others' case (supra)** is 16. So by applying that multiplier, the amount of compensation comes to Rs.8,29,400/-. Another sum of Rs.10,000/- stands allowed in respect of expenses on last rites and transportation of dead body. Widow is also held entitled to claim Rs.25,000/- on account of consortium. Another sum of Rs.25,000/- stands allowed in respect of loss of love and affection. These amounts have been granted by keeping in view the price index of the year 2001.

8. So, in this manner the claimants are held entitled to claim Rs.8,89,440/- (say Rs.8,90,000/-) in all. The enhanced amount shall carry interest @ 7½% per annum from the date of claim petition before the Tribunal till the date of realization. The liability to pay the compensation amount shall be the same as ordered by the Tribunal. Out of enhanced amount of Rs.6,00,000/-, Rs.3,00,000/- shall be paid to the widow of the deceased and the remaining amount shall be shared by the remaining claimants in equal shares. However, in case Gurdev Kumari is not alive today, in that case, her share shall be shared by Sweety and Varun claimants in equal shares.

9. In the manner indicated above, the appeal stands disposed of accordingly.

10. A copy of this judgment be sent to the trial Court for strict compliance.

**( K.C.PURI )**
**JUDGE**

**May 11, 2015**
**sv**